# REPLY OF

# Hon. JEFFERSON DAVIS, of Mississippi,

## TO THE SPEECH OF SENATOR DOUGLAS,

**In the U. S. Senate, May 16 and 17, 1860.**

THE SENATE resumed the consideration of the Resolutions submitted by Mr. DAVIS on the 1st of March, relative to State rights, the institution of slavery in the States, and the rights of citizens of the several States in the Territories.

Mr. DOUGLAS having concluded his speech—

Mr. DAVIS arose and said:

Mr. PRESIDENT:—When the Senator from Illinois commenced his speech, he announced his object to be to answer to an arraignment, or, as he also termed it, an indictment, which he said I had made against him. He therefore caused extracts to be read from my remarks to the Senate. Those extracts announce that I have been the uniform opponent of what is called squatter sovereignty; and that, having opposed it heretofore, I was now, least of all, disposed to give it quarter. At a subsequent period, the fact was stated that the Senator from Illinois and myself had been opposed to each other on those questions, which I considered as most distinctly involving Southern interests, in 1850. He has not answered to the allegation. He has not attempted to show that he did not stand in that position. It is true, that he has associated himself with Mr. Clay, and, before closing, I will show that the association does not belong to him; that upon those test questions they did not vote together. He then, somewhat vauntingly, reminded me that he was with the victorious party, asserted that the democracy of the country then sustained his doctrine, and that I was thus outside of that organization. With Mr. Clay! If he had been with him, he would have been in good company; but the old Jackson democracy will be a little surprised to learn that Clay was the leader of our party, and that a man proves his allegiance to it, by showing how closely he followed in the footsteps of Henry Clay.

When the Senator opened his argument, by declaring his purpose to be fair and courteous, I little supposed that an explanation made by me in favor of the Secretary of State, and which could not at all disturb the line of his argument, would have been followed by the rude announcement that he could not permit interruption thereafter. A Senator has the right to claim exemption from interruption, if he will follow the thread of his argument, direct his discourse to the question at issue, and confine himself to it; but if he makes up a medley of arraignments of the men who have been in public life for ten years past, and addressing individuals in his presence, he should permit an interruption to be made for correction as often as he misrepresents their position. It would have devolved on me more than once, if I had been responsible for his frequent references to me, to correct him and show that he misstated facts; but as he would not permit himself to be interrupted, I am not responsible for anything he has imputed to me.

The Senator commenced with a disclaimer of any purpose to follow what he considered a bad practice of arraigning senators here on matters for which they stood responsible to their constituents; but straightway proceeded to make a general arraignment of the present and the absent. I believe I constitute the only exception to whom he granted consistency, and that at the expense of party association, and, he would have it, at the expense of sound judgment. He not only arraigned individuals, but even States—Florida, Alabama, and Georgia—were brought to answer at the bar of the Senate for the resolutions they had passed; Virginia was held responsible for her policy; Mississippi received his critical notice. Pray, sir, what had all this to do with the question? Especially, what had all this to do with what he styled an indictment against him? It is a mere resort to a species of declamation, which has not been heard to-day for the first time; a pretext to put himself in the attitude of a persecuted man, and, like the satyr's guest, blowing hot and cold in the same breath, in the midst of his complaint of persecution, vaunts his supreme power. If his opponents be the very small minority which he describes, what fear has he of persecution or proscription?

Can he not draw a distinction between one who says: "I give no quarter to an idea," and one who proclaims the policy of putting the advocates of that idea to the sword? Such was his figurative language. That figure of the sword, however, it seemed, as he progressed in his development, referred to the one thought always floating through his brain—exclusion from the spoils of office; for, at last, it seemed to narrow down to the supposition, that no man who agreed with him, was, with our consent, to be either a Cabinet officer or a collector. Who has advanced any such doctrine? Have I, at this or any other period of my acquaintance with him, done anything to justify him in attributing that opinion to me? I pause for his answer.

Mr. DOUGLAS. I do not exactly understand the Senator. I have no complaint to make of the Senator from Mississippi of ever having been unkind or ungenerous towards me, if that is what he means to say.

Mr. DAVIS. Have I ever promulgated a doctrine which indicated that if my friends were in power, I would sacrifice every other wing of the democratic party?

Mr. DOUGLAS. I understood the making of a test on this issue against me would reach every other man that held my opinions; and, therefore, if I was not sound enough to hold office, no man agreeing with me would be; and hence, every man of my opinions would be excluded.

Mr. DAVIS. Ah, Mr. President, I believe I now have caught the clue to the argument; it was not before apprehended. I was among those who thought the Senator, with his opinions, ought not to be chairman of the Committee on Territories. This, I suppose then, is the whole imposition. But have I not said to the Senator, at least once, that I had no disposition to question his democracy; that I did not wish to withhold from him any tribute which was due to his talent and his worth? Did I not offer to resign the only chairmanship of a committee I had, if the Senate would confer it upon him? Then, where is this spirit of proscription, the complaint of which has constituted

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some hours of his speech? If others have manifested it, I do not know it; and as the single expression of "no quarter to the doctrine of squatter sovereignty" was the basis of his whole allegation, I took it for granted his reference to a purpose to do him and his friends such wrong, must have been intended for me.

The fact that the Senator criticised the idea of the States prescribing the terms on which they will act in a party convention recognized to be representative, is suggestive of an extreme misconception of relative position; and the presumption with which the Senator censured what he was pleased to term "the seceders," suggested to me a representation of the air of the great monarch of France, when, feeling royalty and power all concentrated in his own person, he used the familiar, yet remarkable expression, "the State, that's me." Does the Senator consider it a modest thing in him to announce to the Democratic Convention on what terms he will accept the nomination; but presumptuous in a State to declare the principle on which she will give him her vote? It is an advance on Louis Quatorze.

Nothing but the most egregious vanity, something far surpassing even the bursting condition of swollen pride, could have induced the Senator to believe that I could not speak of squattor sovereignty without meaning him.

Towards the Senator, personally, I have never manifested hostility—indeed, could not, because I have ever felt kindly. Many years of association, very frequent co-operation, manly support from him in times of trial, are all remembered by me gratefully. The Senator, therefore, had no right to assume that I was making war upon him. I addressed myself to a doctrine of which he was not the founder, though he was one of the early disciples; but he proved an unprofitable follower, for he became rebellious, and ruined the logic of the doctrine. It was logical in Mr. Cass's mind; he claimed the power to be inherent in the people who settled a new Territory, and by this inherent power be held, that they might proceed to form government, and to exercise its functions. There was logic in that—logic up to the point of sovereignty. Not so with the Senator. He says the inhabitants of the Territories derive their power to form a government from the consent of Congress; that when we decide that there are enough of them to constitute a government, and enact an organic law, then they have power to legislate according to their will. This power being derived from an act of Congress, a limited agency tied down to the narrow sphere of the constitutional grant; is made by that supposition the bestower of sovereignty on its creature.

I had occasion, the other day, to refer to the higher law as it made its first appearance on earth—the occasion when the tempter entered the garden of Eden. There is another phase of it. Whoever attempts to interpose between the supreme law of the Creator and the creature, whether it be in the regions of morals or politics, proclaims a theory that wars upon every principle of government. When Congress, the agent for the States, within the limits of its authority, forms, as it were, a territorial constitution, by its organic act, he who steps in and proclaims to the settlers in that Territory, that they have the right to overturn the Government, to usurp to themselves powers not delegated, is preaching the higher law in the domain of politics, which is only less mischievous than its other form, because the other involves both politics and morals in one ruinous confusion.

The Senator spoke of the denial of democratic fellowship to him. After what has been said, and acknowledged by the Senator, it is not to be supposed that it could have any application to me. It may be proper to add, I know of no such denial on the part of other democratic senators. Far be it from me to vaunt the fact of being in a majority, and to hold him to the hard rule he prescribes to us, of surrendering an opinion where we may happen to have been in a minority. Were I to return now to him the measure with which he metes to us, when he assumes that a majority in the Charleston Convention, has a right to prescribe what shall be our tenets, I might in reply to him say, as a sincere adherent of the democratic party, how can you oppose the resolutions pending before the Senate? If twenty-seven majority in a body of three hundred and three constituent members had, as he assumes, the power to lay down a binding law, what is to be said of him who, with a single adherent, stands up against the whole of his democratic associates? He must be outside of the party, according to his enunciation; he must be wandering in the dark regions to which he consigns the followers of Mr. Yancey.

The Senator said he had no taste for references to things which were personal, and then proceeded to discuss that of which he showed himself profoundly ignorant—the condition of things in Mississippi. It is disagreeable for me to bring before the Senate, matters which belong to my constituents and myself, and I should not do so, but for the fact of their introduction into the Senator's elaborate speech, which is no doubt to be spread over all parts of the country. The Senator, by some means or other, has the name of very many citizens of Mississippi, and as there is nothing in our condition to attract his special attention, his speech is probably to be sent over a wide field of correspondence; and it is, therefore, the more incumbent on me to notice his attempt to give a history of affairs that were transacted in Mississippi. He first announces that Mississippi rebuked the idea of intervention asserted in 1850; then that Mississippi rejected my appeal; that Mississippi voted on the issue made up by the compromise measures of 1850, and decided against me, and vaunts it as an approval of that legislation of which he was the advocate and I the opponent. Now, Mississippi did none of these things. Mississippi instructed her senators, and I obeyed her instructions. I introduced into this body the resolutions which directed my course. On that occasion, I vindicated Mississippi, and especially the Southern Rights men, from the falsehood of that day, and reiterated now, of a purposo to dissolve the Union. I vindicated her by extracts from the proceedings, as well of her convention as of her primary assemblies; and my remarks on that occasion, as fully as the events to which he referred in terms of undeserved compliment, justified the Senator in saying to-day that he knew I had always been faithful to the Government of which I was a part.

Acting under the instructions from Mississippi—not merely voting and yielding reluctant compliance; but, according to my ideas of the obligation of a Senator, laboring industriously and zealously to carry out the instructions which my State gave me, I took and maintained the position I held in relation to the measures of 1850. As it was with me a cordial service, I went home to vindicate the position which was hers, as well as my own. Shortly after that, a canvass was opened, in which a distinguished gentleman of our party, who had not been a member of Congress, was nominated for Governor. Questions, other than the compromise measures of 1850, arose in that canvass; they were discussed, in a great degree, to the exclusion of a consideration of the merits of the action of Congress in 1850; and at the election in September, for delegates to a convention, we had fallen from a party majority of some eight thousand, to a minority of nearly the same number. It was after the decision of the question involved in calling a convention, after our party was defeated, after the candidate for Governor had retired, that the democracy of Mississippi called upon me to bear their standard. It was esteemed a forlorn hope, therefore an obligation of honor not to decline the invitation. But, so far as the action in the Senate in 1850 was concerned, if it had any effect, it must have been the reverse of that assumed, as in the consequent election for State officers on the first Monday in November, this majority of nearly eight thousand against us was reduced to about one thousand.

But when this Convention assembled, though a large majority of the members belonged to the party which the Senator has been pleased to term the "submissionists"—a name which they always rejected—this convention of the party most adverse to me, when they came to act on the subject, said, after citing the "compromise" measures of the Congress of 1850:

"And connected with them, the rejection of the proposition to exclude slavery from the Territories of the United States, and to abolish it in the District of Columbia; and, *whilst they do not entirely approve*, will abide by it as a permanent adjustment of this sectional controversy, so long as the same, in all its features, shall be faithfully adhered to and enforced."

Then they go on to recite six different causes for which they will resort to the most extreme remedies which we had supposed ever could be necessary. The case only requires that I should say that the party to which I belonged did not then, nor at any previous time, propose to go out of the Union, but to have a Southern Convention for consultation as to future contingencies threatened and anticipated. It was at last narrowed down to the question whether we should meet South Carolina and consult with her. Honoring that gallant State for the magnanimity she had manifested in the first efforts for the creation of the Government, in the preliminaries to the struggle for independence, when she, a favored colony, feeling no oppression, nursed by the mother country, cherished in every method, yet agreed with Massachusetts, then oppressed, to assert the great principle of community independence, and to carry it to the extent of war—honoring her for her unwavering defence of the Constitution throughout her whole course—believing that she was true to her faith, and would redeem all her pledges—feeling that a friendly hand might restrain, while, if left to herself, her pride might precipitate her on the trial of separation, I did desire to meet South Carolina in convention, though nobody but ourselves should be there to join them.

But to close the matter, this convention, in its seventh resolution, after stating all those questions on which it would resist, declared:

"That as the people of Mississippi, in the opinion of this convention, desire all further agitation of the slavery question to cease, and have acted upon and decided the foregoing questions, thereby making it the duty of this convention to pass no act in the purview and spirit of the law under which it is called, this convention deems it unnecessary to refer to the people for approval or disapproval, at the ballot box, its action in the premises."

So that when the Senator appealed to this, as evidence of what the people of Mississippi had done, he was ignorant of the fact that the delegates of the people of Mississippi did not agree with him; that their resolutions did not sustain the view which he took, and that the people of Mississippi never acted on them. If, then, there had been good taste in the intervention of this local question, there was certainly very bad judgment in hazarding his statements on a subject of which he was so little informed.

The Senator here, as in relation to our friends at Charleston, takes kind care of us, supposes we do not know what we are about, but that he, with his superior discrimination, sees what must necessarily result from what we are doing; he says that at Charleston they—innocent people—did not intend to destroy the Government; but he warns them that if they do what they propose they will destroy it; and so he says we of Mississippi, not desiring to break up the Union, nevertheless pursued a course which would have had that result, if it had not been checked. Where does he get all this information? I have been in every State of the Union, except two—three, now, since Oregon has been admitted—but I have never seen a man who had as much personal knowledge. It is equally surprising that his facts should be so contrary to the record.

We believed then, as I believe now, that this Union, as a compact entered into between the States, was to be preserved by good faith and by a close observance of the terms on which we were united. We believed then, as I believe now, that the party which rested upon the basis of truth; promulgated its opinions, and had them tested in the alembic of public opinion, adopted the only path of safety. I cannot respect such a doctrine as that which says, "You may construe the Constitution your way, and I will construe it mine; we will waive the merit of these two constructions and harmonize together until the courts decide the question between us." A man is bound to have an opinion upon any political subject upon which he is called to act; it is skulking his responsibility for a citizen to say, "Let us express no opinion, I will agree that you may have yours, and I will have mine; we will co-operate politically together, we will beat the opposition, divide the spoils, and leave it to the courts to decide the question of creed between us."

I do not believe that this is the path of safety; I am sure it is not the way of honor. I believe it devolves on us, who are principally sufferers from the danger to which this policy has exposed us, to affirm the truth boldly, and let the people decide after the promulgation of our opinions. Our Government, resting as it does upon public opinion and popular consent, was not formed to deceive the people nor does it regard the men in office as a governing class. We, the functionaries, should derive our opinions from the people. To know what their opinion is, it is necessary that we should pronounce, in unmistakable language, what we ourselves mean.

My position is, that there is no portion of our country where the people are not sufficiently intelligent to discriminate between right and wrong, and no portion where the sense of justice does not predominate. I, therefore, have been always willing to unfurl our flag to its innermost fold, to nail it to the mast with all our principles plainly inscribed upon it. Believing that we ask nothing but what the Constitution was intended to confer; nothing but that which, as equals, we are entitled to receive, I am willing, that our case should be plainly stated to those who have to decide it, and await, for good or for evil, their verdict.

For two days, the Senator spoke nominally upon the resolutions, and upon the territorial question; but, like the witness in the French comedy, who, when called upon to testify, commenced before the creation, and was stopped by the judge, who told him to come down, for a beginning, to the deluge, he commenced so far back, and narrated so minutely, that he never got chronologically down to the point before us.

What is the question on which the Democracy are divided? Are we called upon to settle what everybody said from 1847 down to this date? Have the Democracy divided on that? Have they divided on the resolutions of the States in 1840, or 1844, or 1848? Have the Democracy undertaken to review the position taken in 1854: that there should be a latitude of construction upon a particular point of constitutional law, while they did await the decision of the Supreme Court? No, sir; the question is changed from before to after the event. The call is on every man to come forward now, after the Supreme Court has given all it could render upon a political subject, and state that his creed is adherence to the rule thus expounded in accordance with previous agreement.

The Senator tells us he will abide by the decision of the Supreme Court; but it was fairly to be inferred, from what he said, that in the Dred Scott case he held that they had only decided that a negro could not sue in a Federal Court? Was this the entertainment to which we were invited? Was the proclaimed boon of allowing the question to go to judicial decision, no more than that one after another each law might be tested, and that one after another

each case, under every law, might be tried, and that after centuries should roll away, we might hope for the period when, every case exhausted, the decision of our constitutional right and of the federal duty would be complete? Or was it that we were to get rid of the controversy, which had divided the country for thirty years; that we were to reach a conclusion, beyond which we could see the region of peace; that tranquillity was to be obtained by getting a decision on a constitutional question which had been discussed until it was seen that legislatively it could not or would not be decided? If, then, the Supreme Court has judicially announced that Congress cannot prohibit the introduction of slave property into a Territory, and that no one deriving authority from Congress can do so, and the Senator from Illinois holds that the inhabitants derive their power from the organic act of Congress, what restrains his acknowledgment of our right to go into the Territories, and his recognition of the case being closed by the opinion of the court? I can understand how one who has followed to its logical consequences the original doctrine of squatter sovereignty might still stand out and say this inherent right cannot be taken away by judicial decision; but is not one who claims to derive the power of the territorial legislature from a law of Congress, and who finds the opinion of the court conclusive as to Congress, and to all deriving their authority from it, estopped from any further argument?

Much of what the Senator said about the condition of public affairs can only be regarded as the presentation of his own case, and requires no notice from me. His witticism upon the honorable Senator, the chairman of the Committee on the Judiciary [Mr. BAYARD], who is now absent, because of the size of the State which he represents, reminds one that it was mentioned as an evidence of the stupidity of a German, that he questioned the greatness of Napoleon because he was born in the little island of Corsica. I know not what views the Senator entertained when he measured the capacity of the Senator from Delaware by the size of that State, or the dignity of his action at Charleston by the number of his constituents. If there be any political feature which stands more prominently out than another in the Union, it is the equality of the States. Our stars have no variant size; they shine with no unequal brilliancy. A Senator from Delaware holds a position entitled to the same respect, as such, as a Senator from any other State of the Union. More than that: the character, the conduct, the information, the capacity of that Senator might claim respect if he was not entitled to it from his position.

Twice on this occasion, and more than the same number of times heretofore, has the Senator referred to the great benefit derived from that provision which grants a trial in the local court, an appeal to the Supreme Court of the Territory, and an appeal from thence to the Supreme Court of the United States on every question involving title to slaves. I wish to say that whatever merit attaches to that belongs to a Senator to whom the advocates of negro slavery have not often been in the habit of acknowledging their obligations—the Senator from New Hampshire [Mr. HALE], who introduced it, in 1850, as an amendment to the New Mexico Bill. We adopted it as a fair proposition, equally acceptable upon one side and the other; on its adoption, no one voted against it. That proposition was incorporated in the Kansas Bill, but unless we acknowledge obligations to the Senator from New Hampshire how shall they be accorded for that to the Senator from Illinois.

I am asked whether the resolutions of the Senate can have the force of law. Of course not. The Senate, however, is an independent member of the Government, and from its organization should be peculiarly watchful of State rights. Before the meeting of the Charleston Convention, it was untruly stated that these resolutions were concocted to affect the action of the Charleston Convention. Now we are asked if they are to affect the Baltimore Convention. They were not designed for the one; they are not pressed in view of the other. They were introduced to obtain an expression of the opinion of the Senate, a proceeding quite frequent in the history of this body. It was believed that they would have a beneficial effect, and that they were stated in terms which would show the public the error of supposing that there was a purpose on the part of the Democracy, or of the South, to enact what was called a slave code for the Territories of the United States. It was believed that the assertion of sound principles at this time would direct public opinion, and might be fruitful of such re-uniting, harmonizing results as we all desire and which the public need. Whether it is to have this effect or not; whether, at last, we are to be shorn of our national strength by personal or sectional strife, depends upon the conduct of those who have it in their power to control the result. The Democratic party, in its history, presents a high example of nationality; its power and its usefulness has been its coextension with the Union. The Democrats of the Northern States who vote for these resolutions but affirm that which we have so often announced with pride, that there was a political opinion which pervaded the whole country; there was a party capable to save the Union, because it belonged to all the States. If the two Democratic Senators who alone have declared their opposition should so vote, to that extent the effect will be impaired, and they will stand in that isolation to which the Senator points as a consequence so dreadful to the Southern men at Charleston.

[Here Mr. DAVIS gave way for a motion to adjourn, and on the 17th resumed:]

Mr. DAVIS. At the close of the session of yesterday, I was speaking of the hope entertained that the Democratic party would yet be united; that the party which had so long wielded the destinies of the country for its honor, for its glory, and its progress, was not about to be checked midway in its career, to be buried in a premature grave; but that it was to go on with concentrated energy towards the great ends for which it has striven since 1800, by a long pull, and a strong pull, and a pull all together, to bring the ship of State into that quiet harbor where vessels safe, without their hawsers, ride. This was a hope, however, not founded on any supposition that we were to escape from the issues which are presented—a hope not based on the proposition that every man should have his own construction of our creed, and that we should unite together merely for success; but that the party, as heretofore, in each succeeding quadrennial convention, would add to the resolutions of the preceding one such declarations as passing events indicated and the exigencies of the country demanded.

In the last four years, a division has arisen in the Democratic party upon the construction of one of the articles of its creed. It behooves us, in that state of the case, to decide what the true construction is; for if the party be not a union of men, upon principle, the sooner it is dissolved the better; and if it be such a union, why shall not those principles be defined so as to remove doubt or cavil, and be applied in every emergency to meet the demands of each succeeding case? Thus only can we avoid division in council and confusion in action.

The Senator from Illinois, who preceded me, announced that he had performed a pleasing duty in defending the Democratic party. That party might well cry out, Save me from my defender! It was a defence of the party by the arraignment of its prominent members. It was the preservation of the body by the destruction of its head; for the President of the United States is, for the time being, the head of the party that placed him in position; and the head of the party thus in position cannot be destroyed without the disintegration of the members and the destruction of the body

itself. I suppose the Senator, however, was at his favorite amusement of "shooting at the lump." The "lump" heretofore has been those Democratic Senators who dissented from him; this time he involved democrats all over the country. Not even the Presiding Officer, whose position seals his lips, could escape him; and here let me say that I found nothing in the extract read from that gentleman's address which, construed as was no doubt intended, does not meet my approval; but if tried by the modern lexicon of the Senator, it might be rendered a contradiction to his avowed opinions, and by the same mode of expounding, non-intervention would be a sin of which the whole Democracy might be convicted under the indictment of squatter sovereignty. The language quoted from the address of the Vice-President is to be construed as understood at the time, at the place, and by men such as the one who used it.

With that force which usually enters into his addresses—with more even than his usual eloquence—the Senator referred to the scene which awaited him upon his return to Chicago, when, as represented, he met an infuriated mob, who assailed him for having maintained the measures of 1850—those compromises which, in the Northern section, it was urged had been passed in the interest of the South. But, pray, what one of those measures was it which excited the mob so described? Only one, I believe, was put in issue at the North,—the fugitive slave law,—that one he did not vote for; but it was the part of manliness to say that, though absent and not voting for it, he approved of it; such, I believe, was his commendable course on that occasion. I give him, therefore, all due credit for not escaping from a responsibility to which they might not have held him. Are we to give perpetual thanks to any one because he did not yield to so senseless a clamor, but conceded to us that small measure of constitutional right; because he has complied with a requirement so plain that my regret is, that it ever required Congressional intervention to enforce it? It belonged to the honor of the States to execute that clause of the Constitution. They should have executed it without Congressional intervention; Congressional action should only have been useful to give that uniformity of proceeding which State action could not have secured.

Concurring in the depicted evil of the destruction of the Democratic organization, it must be admitted that such consequence is the inevitable result of a radical difference of principle. The Senator laments the disease, but instead of healing, aggravates it. While pleading the evils of a disruption of the party, it is quite apparent that in his mind there is another still greater calamity; for through all his arraignment of others, all his self-laudation, all his complaints of persecution, like an air through its variations, appears and reappears the action of the Charleston Convention. That seemed to be the beginning and the end of his solicitude. The oft-told tale of his removal from the chairmanship of the Committee on Territories had to be renewed and connected with that Convention, and even assumed as the basis on which his strength was founded in that Convention. I think the Senator did himself injustice. I think his long career and distinguished labors, his admitted capacity for good hereafter, constitute a better reason for the support which he received, than the fact that his associates in the Senate had not chosen to put him in a particular position in the organization of this body. It is enough that that fact did not divert support from him; and I am aware of none of his associates here who have forced it upon public attention with a view to affect him.

He claims that an arraignment made against his democracy has been answered by the action of a majority of the Convention at Charleston; and then proceeds to inform the minority men that he would scorn to be the candidate of a party unless he received a majority of its votes. There was no use in making that declaration; it requires not only a majority, but, under our ruling, a vote of two-thirds for a nomination. It was unnecessary for anybody to feel scorn towards that which he could not receive. Other unfortunate wights might mourn the event, it belonged to the Senator from Illinois to scorn it. The remark of Mr. Lowndes which has been so often quoted, and which, beautiful in itself, has acquired additional value by time, that the Presidency was an office neither to be sought nor declined, has no application, therefore, to the Senator, for under certain contingencies he says he would decline it. It does not devolve on me to decide whether he has sought it or not.

But, sir, what is the danger which now besets the Democratic party? Is it, as has been asserted, the doctrine of intervention by Congress, and is that doctrine new? Is the idea that protection by Congress to all rights of person and property, wherever it has jurisdiction, so dangerous that, in the language employed by the Senator, it would sweep the Democratic party from the face of the earth? For what was our Government instituted? Why did the States confer upon the Federal Government the great functions which it possesses? For protection—mainly for protection beyond the municipal power of the States. I shall have occasion, in the progress of my remarks, to cite some authority, and to trace this from a very early period. I will first, however, notice an assault which the Senator has thought proper to make upon certain States, one of which is in part represented by myself. He says they are seceders, bolters, because they withdrew from a party Convention when it failed to announce their principles. There can be no tie to bind me to a party beyond my will. I will admit no bond that holds me to a party a day longer than I agree to its principles. When men meet together to confer, and ascertain whether or not they do agree, and find that they differ—radically, essentially, irreconcilably differ—what belongs to an honorable position except to part? They cannot consistently act together any longer. It devolves upon them frankly to announce the difference, and each to pursue his separate course.

The letter of Mr. Yancey—acknowledged to be a private letter, an unguarded letter, but which somehow or other got into the press—was read to sustain this general accusation against what are called the Cotton States. I do not pretend to judge how far the Senator has the right here to read a private letter, which, without the authority of the writer, has gone into the public press. It is one of those questions which every man's sense of propriety must in his own case decide. Whether or not the use of that letter was justifiable, how is it to be assumed that the Southern States are bound by any opinion there enunciated? How to be asserted that we, the residents in those States, have pinned our faith to the sleeve of any man, and that we will follow his behest, no matter whither he may go? But was this the only source of information, or was the impression otherwise sustained? Did Mr. Yancey, in his speech delivered at Charleston, justify the conclusions which the Senator draws from this letter? Did he admit them to be correct? There he might have found the latest evidence and the best authority. Speaking to that point, Mr. Yancey said:

"It has been charged, in order to demoralize whatever influence we might be entitled to, either from our personal or political characteristics, or as representatives of the State of Alabama, that we are disruptionists, disunionists *per se;* that we desire to break up the party in the State of Alabama—to break up the party of the Union, and to dissolve the Union itself. Each and all of these allegations, come from what quarter they may, I pronounce to be false. There is no disunionist, that I know of, in the delegation from the State of Alabama. There is no disruptionist that I know of; and if there are factionists in our delegation, they could not have got in there with the knowledge upon the part of our State convention that they were of so unenviable a character. We come here with two great purposes: first, to save the constitutional rights of the South, if it lay in our power to do so. We desire to save the South by the best means that present themselves to us; and the State of Alabama believes that the best means now in existence is the organization of the Democratic party, if we shall be able to

persuade it to adopt the constitutional basis upon which we think the South alone can be saved."

He further says:

"We have come here, then, with the twofold purpose of saving the country and saving the democracy; and if the democracy will not lend itself to that high, holy, and elevated purpose; if it cannot elevate itself above the mere question of how perfect shall be its mere personal organization, and how wide-spread shall be its mere voting success, then, we say to you, gentlemen, mournfully and regretfully, that in the opinion of the State of Alabama, and, I believe, of the whole South, you have failed in your mission, and it will be our duty to go forth and make an appeal to the loyalty of the country to stand by that Constitution which party organizations have deliberately rejected." [Applause.]

Mr. Yancey answers for himself. It was needless to go back to old letters. Here were his remarks delivered before the Convention, speaking to the point in issue, and answering both as to his purposes and as to the motives of those with whom he conferred and acted.

The Senator next cited the resolutions of the State of Alabama, and here he seemed to rest the main point in his argument. The Senator said that Alabama, in 1856, had demanded of the Democratic Convention non-intervention, and that in 1860, she had retired from the Convention because it insisted upon non-intervention; he read one of the resolutions of the Alabama convention of 1856, but the one which bore upon the point was not read. The one which was conclusive as to the position of Alabama then, and its relation to her position now, exactly the one that was omitted, I read from the resolutions of this year, was as follows:

"*Resolved further*, That we reaffirm so much of the first resolution of the platform adopted in the convention by the democracy of this State, on the 8th of January, 1856, as relates to the subject of slavery, to wit."

It then goes on to quote from that resolution of 1856, as follows:

"The unqualified right of the people of the slaveholding States to the protection of their property in the States, in the Territories, and in the wilderness, in which territorial governments are as yet unorganized."

That was the resolution of 1856; and like it was one of February, 1848:

"That it is the duty of the General Government, by all proper legislation, to secure an entry into those Territories to all the citizens of the United States, together with their property of every description; and that the same shall be protected by the United States while the Territories are under its authority."

So stands the record of that State which is now held responsible for retiring, and is alleged to have withdrawn because she received now what in former times she had demanded as the full measure of her rights. Did she receive it? The argument could only be made by concealing the fact that her resolutions of 1848 and 1856 asserted the right to protection, and claimed it from the General Government. What, then, is the necessary inference? That in the Cincinnati platform they believed they obtained that which they asserted, or that which necessarily involved it. So much for the point of faith; so much for the point of consistency in the assertion of right. But if it were otherwise; if they had neglected to assert a right; would that destroy it? If they had failed at some time to claim this protection, are they to be estopped in all time to come from claiming it? Constitutional right is eternal—not to be sacrificed by any body of men. A single man may revive it at any period of the existence of the Constitution. So the argument would be worthless if the facts were as stated. That they are not so stated is shown by the record.

Here allow me to say, in all sincerity, that I dislike thus to speak about conventions; it does not belong to the duties of the Senate; we did not assemble here to make a President, except in the single contingency of a failure by the people and by the House of Representatives to elect. When that contingency arrives, the question will be before us. I am sorry that it should have been prematurely introduced. But since the action of the recent convention at Charleston is presented as the basis of argument, it may be as well to refer to it and see what it is. The majority report, presented by seventeen States of the Union, and those the States most reliable to give democratic votes, the States counted so certain to give democratic votes that they have been regarded as a fixed basis, a nucleus to which others were to be attracted—these seventeen States reported to the Convention a series of resolutions, one of which asserted the right to protection. A minority of States reported another series, excluding the avowal of the right—not exactly denying it, but not avowing it—and a second minority report was submitted, being the Cincinnati platform pure and simple. It is true that a majority of delegates adopted the minority report, but not a majority of States, nor does it appear by an analysis of the votes, and the best evidence I have been able to obtain, that it was by a majority of delegates, if each had been left to his own choice; but that, by one of those ingenious arrangements, one of those incidents which among jurists is described as the favor the vigilant receives from the law, it so happened that in certain States the delegates were instructed to vote as a unit; in other States they were not; so that wherever they were instructed to vote as a unit, the vote must so be cast; and wherever they were not, they might disintegrate. Thus minorities were bound in one instance, and released in another; and by a comparison made by those who had an opportunity to know, it appears that the minority report could not have got a majority of the delegates, if each delegate had been permitted to cast his own vote in the Convention. Neither could it have obtained, as appears by the action of the commitee, a majority of States, if they had been spoken as such. So that this vaunt as to the effect of the adoption of the platform by a majority, seems to have very little of substance in it. Again, I find that after this adoption of a platform, a delegate from Tennessee offered a resolution:

"That all the citizens of the United States have an equal right to settle, with their property, in the Territories of the United States; and that, under the decision of the Supreme Court of the United States, which we recognize as a correct exposition of the Constitution of the United States, neither their rights of person or property can be destroyed or impaired by congressional or territorial legislation."

It does not appear that a vote was taken on it. There is a current belief that it would have been adopted. If it had been, it would have been an acknowledgment by the democracy, in convention assembled, that the question had been settled by the decisions of the Supreme Court But in the progress of the convention, when they came to balloting, it appears by an analysis of the vote for candidates, that the Senator from Illinois received from seventeen undoubted democratic States of the Union, casting one hundred and twenty-seven electoral votes, but eleven votes. It is not such a great triumph, then, in the democratic view, as is claimed. It does not suffice to add up the number of votes where they do not avail. It is not fair to bring the votes of Vermont, where I believe nobody expects we shall be successful, and count them for a particular candidate. The electoral votes, and these alone, tell upon the result; and it appears that in those States which have been counted certain to cast their electoral votes for the candidate who might have been nominated at that convention, the Senator received but eleven. This is but meagre claim to bind us to his car as the successful champion of the majority. This is but small basis for the boast that his hopes were gratified, that he would not receive the nomination unless sustained by a majority of the party, and that his opinions had received the endorsement of the democracy.

My devotion to the party is life-long. If the assertion be allowable it may be said that I inherited my political principles. I derive them from a revolution-

ary father—one of the earnest friends of Mr Jefferson: who, after the revolution which achieved our independence, bore his full part in the civil revolution of 1800, which emancipated us from federal usurpation and consolidation. I therefore have all that devotion to party which belongs to habitual reverence and confidence. But, sir, that devotion to party rests on the assumption that it is to maintain sound principles; that it is to strive hereafter, as heretofore, to carry out the great cardinal creed in which the democratic party was founded. When the resolutions of 1798 and 1799 are discarded; when we fly from the extreme of monarchy to land in the danger to republics, anarchy, and the democratic party says its arm is paralyzed, cannot be raised to maintain constitutional rights, my devotion to its organization is at an end. It fails thenceforward in the purposes for which it was established; and if there be a constitutional party in the land, which, in the language of Mr. Jefferson, would find in the vigor of the Federal Government the best hope for our liberty and security, to that party I should attach myself whenever that sad contingency arose.

The resolutions of 1798 and 1799, though directed against usurpation, were equally directed against the dangers of anarchy. Their principles are alike applicable to both. Their cardinal creed was a Federal Government, according to the grants conferred upon it, and these righteously administered. It is not fair to the men who taught us the lessons of democracy that they should be held responsible for a theory which leaves the Federal Government, as one who has abdicated all authority, to stand at the mercy of local usurpations. Least of all does their teaching maintain that this Government has no power over the Territories; that this Government has no obligation to protect the rights of person and property in the Territories. For among the first acts under the Constitution was one which both asserted and exercised the power.

After the adoption of the Constitution, in 1789, an act was passed, to which reference is frequently made as being a confirmation of the Ordinance of 1787; and this has been repeated so often that it has received general belief. There was a constitutional provision which required all obligations and engagements under the Confederation to hold good under the Constitution. If there was an obligation or an engagement growing out of the Ordinance of 1787, out of the deed of cession by Virginia, it was transmitted to the Government established under the Constitution; but that Congress under the Constitution gave it no vitality, that they added no force to it, is apparent from the fact which is so often relied upon as authority. It was in view of this fact, in full remembrance of this and of other facts connected with it, that Mr. Madison said, in relation to passing regulations for the Territories, that "Congress did not regard the interdiction of slavery among the needful regulations contemplated by the Constitution, since in none of the territorial governments created by them was such an interdict found." I am aware that Justice McLean has viewed this as an historical error of Mr. Madison. I shall not assume to decide between such high authorities. The act is as follows:

*An Act to Provide for the Government of the Territory Northwest of the Ohio River.*

Whereas, in order that the ordinance of the United States in Congress assembled for the government of the territory northwest of the river Ohio may continue to have full effect, it is requisite that certain provisions should be made so as to adapt the same to the present Constitution of the United States.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in all cases in which, by the said ordinance any information is to be given, or communication made, by the governor of the said Territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information, and to make such communication, to the President of the United States; and the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers which, by the said ordinance, were to have been appointed by the United States in Congress assembled; and all officers so appointed shall be commissioned by him: and in all cases where the United States in Congress assembled might, by the said ordinance, make any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

SECT. 2. *And be it further enacted*, That in the case of the death, removal, resignation, or necessary absence of the governor of the said Territory, the secretary thereof shall be, and he is hereby authorized and required to execute all the powers and perform all the duties of the governor during the vacancy occasioned by the removal, resignation or necessary absence of the said governor.

Approved August 7, 1789.

All that is to be found in this act which favors the supposition and frequent assertion that under the Constitution the Ordinance of 1787 was ratified and confirmed, is to be found in the preamble, and that preamble so vaguely alludes to it that the idea is refuted by reference to an act which followed soon afterwards—the act of 1793—from which I will read a single section:

"SECT. 3. *And be it further enacted*, That when a person held to labor in any of the United States, or in either of the Territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said States or Territories, the person to whom such service or labor may be due, his agent, or attorney, is hereby empowered to seize or arrest such fugitive from labor," &c.

Is it not apparent that when the Congress legislated in 1793, they recognized the existence of slavery and protected that kind of property in the territory northwest of the river Ohio, and is it not conclusive that they did not intend, by the act of 1789, to confirm, ratify, and give effect to the Ordinance of 1787, which would have excluded it.

This doctrine of protection, then, is not new. It goes back to the foundation of the Government. It is traceable down through all the early controversies; and they arose at least as early as 1790. It is found in the messages of Mr. Jefferson and Mr. Madison, and in the legislation of Congress; and also in the messages of the elder Adams. There was not one of the first four Presidents of the United States who did not recognize this obligation of protection, who did not assert this power on the part of the Federal Government; and not one of them ever attempted to pervert it to a power to destroy. If division in the democratic party is to arise now, because of this doctrine, it is not from the change by those who assert it, but of those who deny it. It is not from the introduction of a new feature in the theory of our Government, but from the denial of that which was recognized in its very beginning.

As I understood the main argument of the Senator, it was based upon the general postulate that the Democratic Convention of 1848 recognized a new doctrine, a doctrine which inhibited the General Government from interfering in any way, either for the protection of property, or otherwise, with the local affairs of a Territory: he held the party responsible for all the opinions entertained by the candidate in 1848, because the party had nominated him, and he quoted the record to show what States, by voting for him, had committed themselves to the doctrine of the "Nicholson letter." He even quoted South Carolina, represented by that man who became famous for a single act, and, as South Carolinians said, without authority at home to sustain it. But this was cited as pledging the faith of South Carolina to the doctrine of the "Nicholson letter;" and worse than all, the Senator did this, though he knew that the doctrine of the "Nicholson letter" was the subject of controversy for years subsequently; that, what was the true construction of that letter entered into the canvass in the Southern States; that the construction which Mr. Cass himself placed upon it at a subsequent period was there denied; and the Senator might have remembered, if he had chosen to recollect so unimportant a thing, that I once had to explain to him, ten years ago, the fact

that I repudiated the doctrine of that letter at the time it was published, and that the democracy of Mississippi had well-nigh crucified me for the construction which I placed upon it; there were men mean enough to suspect that the construction I gave to the "Nicholson letter," was prompted by the confidence and affection I felt for General Taylor. At a subsequent period, however, Mr. Cass thoroughly reviewed it. He uttered, for him, very harsh language against all who had doubted the true construction of his letter, and he construed it just as I had done during the canvass of 1848. It remains only to add that I supported Mr. Cass, not because of the doctrine of the "Nicholson letter," but in despite of it; because I believed a Democratic President, with a Democratic cabinet and Democratic counsellors in the two houses of Congress, and he as honest a man as I believed Mr. Cass to be, would be a safer reliance than his opponent, who personally possessed my confidence as much as any man living, but who was of and must draw his advisers from a party, the tenets of which I believed to be opposed to the interests of the country as they were to all my political convictions.

I little thought at that time that my advocacy of Mr. Cass upon such grounds as these, or his support by the State of which I am a citizen, would at any future day be quoted as an indorsement of the opinions contained in the "Nicholson letter," as those opinions were afterwards defined. But it is not only upon this letter but equally upon the resolutions of the convention as constructive of that letter, that he rested his argument. I will here say to the Senator that if, at any time, I do him the least injustice, speaking as I do from such notes as I could take while he progressed, I will thank him to correct me.

But this letter entered into the canvass;—there was a doubt about its construction; there were men who asserted that they had positive authority for saying that it meant that the people of a Territory could only exclude slavery when the Territory should form a constitution, and be admitted as a State. This doubt continued to hang over the construction, and it was that doubt alone which secured Mr. Cass the vote of Mississippi. If the true construction had been certainly known he would have had no chance to get it. Our majority went down from thousands to hundreds, as it was. In Alabama the decrease was greater. It was not that the doctrine was countenanced, but the doubt as to the true meaning of the letter, and the constantly reiterated assertion that it only meant the Territories when they should be admitted as States, enabled him to carry those States.

But if I mistook the Senator there, I think probably I did not on another point: that he claimed the support of certain Southern men for Mr. Richardson as Speaker of the House to be by them an acknowledgment of the doctrine of squatter sovereignty.

I suppose those Southern men who voted for Mr. Richardson, voted for him as I did for Mr. Cass, in despite of his opinions on that question, because they preferred Mr. Richardson to Mr. Banks even with squatter sovereignty. They considered that the latter was carrying an amount of heresies which greatly exceeded the value of squatter sovereignty. It was a choice of evils—not an indorsement of his opinions. Neither did they this year indorse the opinions on that point of Mr. McClernand when they voted for him. According to the Senator's argument I could show him that Illinois was committed to the doctrine of federal protection to property in the Territories and the remedy of secession as a State right; committed irrevocably, unmistakably, with no right to plead any ignorance of the political creed of the individual, or the meaning of his words.

In 1852—I refer to it with pride—Illinois did me the honor to vote consistently for me, for the Vice-Presidency, up to the time of adjournment; though in 1850, and in 1851, I had done all these acts which have been spoken of, and the Senator has admitted my consistency in opinions which were avowed with at least such perspicuity as left nobody in doubt as to my position. Did Illinois then adopt my theory of protection in the Territories, or of the right of State secession? No, Sir. I hold them to no such consequences. Some of the old inhabitants of Illinois may have remembered me when their northern frontier was a wilderness, when they and I had kind relations in the face of hostile Indians. Some of them may have remembered me, and I believe kindly, as associated with them at a later period on the fields of Mexico. The Senator himself, I know, remembered kindly his association with me in the halls of Congress. It was these bonds which gave me the confidence of the State of Illinois. I never misconstrued it. I never pretended to put them in the attitude of adopting all my opinions. Never required it, never desired it, save as in so far as wishing all men would agree with me, confidently believing my position to be true. At a later period, and when these questions were more important in the public mind, when public attention had been more directed to them, when public opinion had been more matured, at the very time when the Senator claims that his doctrine culminated, the State of Illinois voted for a gentleman for Vice-President at Cincinnati who held the same opinions with myself, or if there was a difference, held them to a greater extreme—I mean Gen. Quitman.

Mr. DOUGLAS. We made no test on any one.

Mr. DAVIS. Then, how did the South become responsible for the doctrine of Gen. Cass, by consenting to his nomination in 1848, and supporting his election? But at a later period, down to the present session, what is the position in which the Senator places his friends,—those sterling Democrats, uncompromising anti-Know-Nothings,—men who give no quarter to the American party, and yet who voted this year for Mr. Smith, of North Carolina, to be Speaker of the House of Representatives. Is the Senator answered? Does he not see that there is no justice in assuming a vote for an individual to be the entire adoption of his opinions?

He cited in this connection a resolution of 1848, as having been framed to cover the doctrines of the Nicholson letter; and he claimed thus to have shown that the convention not only understood it, but adopted it and made it the party creed, and that we were bound to it from that period forward. He even had that resolution of 1848 read, in order that there should be, at no future time, any question as to the principle which the party then avowed; that it should be fixed as a starting-point in all the future progress of Democracy. I was surprised at the importance the Senator attached to that resolution of 1848, because it was not new; it was not framed to meet the opinions of the Nicholson letter, but came down from a period as remote as 1840; was copied into the platform of 1844, and again into that of 1848, being the expression which the condition of the country in 1840 had induced,—a declaration of opinion growing out of the agitation in the two Houses of Congress at that day, and the fearful strides which anti-slavery was making, and which Mr. Calhoun had labored to check by the declaration of constitutional truths, as set forth in his Senate resolutions of 1837–38.

That there may be no mistake on this point, and particularly as the Senator attached special importance to it, I will turn to the platform of 1840, and read from it, so that it shall be found to be——

Mr. DOUGLAS. It is conceded.

Mr. DAVIS. The Senator concedes the fact, that the resolution of 1848 was a copy of that of 1840, and with the concession falls his argument. The platforms of 1840 and 1844 were reaffirmed in 1848; and, consequently the resolution of '48 being identical with that of '40, was not a construction of the letter written in 1847.

True to its instincts and to its practices, the Democratic party from time to time continued to add to

their "platform" whatever was needful for action by the Government in the condition of the country. Thus, in 1844 they reasserted the platform of 1840; and they added thereto, because of a question then pending, that—

"The re-annexation of Texas at the earliest practicable period is a great American measure which the convention recommend to the cordial support of the democracy of the Union."

In 1848 they readopted the resolutions of 1844; and were not a little laughed at for keeping up the question of Texas after it had been annexed. In 1852 a new question had arisen; the measures of 1850 had presented with great force to the public mind the necessity for some expression of opinion upon the disturbing questions which the measures of 1850 had been designed to quiet. Therefore, in 1852, the party, true to its obligation to announce its principles, and to meet issues as they arise, said:—

"*Resolved*, That the foregoing proposition [referring to the resolution of 1848] covers, and was intended to embrace, the whole subject of slavery agitation in Congress; and, therefore, the democratic party in the Union, standing on this national platform, will abide by and adhere to a faithful execution of the act known as the compromise measure, settled by the last Congress, the act for reclaiming fugitives from labor included; which act, being designed to carry out an express provision of the Constitution, cannot, with fidelity thereto, be repealed or so changed as to destroy or impair its efficacy.

"*Resolved*, That the Democratic party will restrain all attempts at renewing, in Congress or out of it, the agitation of the slave question, under whatever shape or color the attempt may be made."

This was the addition made in 1852, and it was made because of the agitation which then prevailed through the country against the fugitive slave act, and it was because the fugitive slave act, and that alone, was assailed, that the Democratic convention met the issue on that measure specifically, and for the same reason it received the approbation of the Southern States. Had this been considered as the indorsement of the slave trade bill for the District of Columbia, it would not have received their approval. The agitation was in relation to recovering fugitive slaves, and the Democratic party boldly and truly met the living issue, and declared its position upon it.

In 1856 other questions had arisen. It was necessary to meet them. The convention did meet them, and met them in a manner which was satisfactory, because it was believed to be full. I will not weary the Senate by reading the resolutions of 1856; they are familiar to everybody. I only quote a portion of them:—

"The American Democracy recognize and adopt the principles contained in the organic laws establishing the Territories of Kansas and Nebraska as embodying the only sound and safe solution of the 'slavery question' upon which the great national idea of the people of this whole country can repose in its determined conservatism of the Union—noninterference by Congress with slavery in State and Territory, or in the District of Columbia.

"That, by the uniform application of this Democratic principle to the organization of Territories, and to the admission of new States, with or without domestic slavery as they may elect, the equal rights of all States will be preserved intact, the original compacts of the Constitution maintained inviolate, and the perpetuity and expansion of this Union insured to its utmost capacity of embracing, in peace and harmony, every future American State that may be constituted or annexed with a republican form of government."

Pray, what can this mean? Squatter sovereignty? Incapacity of the Federal Government to enact any law for the protection of slave property anywhere? Could that be, in the face of a struggle that we were constantly carrying on against the opponents of the fugitive-slave law? Could that be, in the face of the fact that a majority had trodden down our constitutional rights in the District of Columbia, by legislating in relation to that particular character of property, and that they had failed to redeem a promise they had sacredly made to pass a law for the protection of slave property, so as to punish any one who should seduce, or entice, or abduct it from an owner in this District?

With all these things fresh in mind, what did they mean? They meant that Congress should not decide the question, whether that institution should exist within a Territory or not. They did not mean to withdraw from the inhabitants of the District of Columbia that protection to which they were entitled, and which is almost annually given by legislation; and yet States and Territories and the District of Columbia are all grouped together, as the points upon which this idea rests, and to which it is directed. It meant that Congress was not to legislate to interfere with the rights of property anywhere; not to attempt to decide what should be the institutions maintained anywhere; but surely not to disclaim the right to protect property, whether on sea or on land, wherever the Federal Government had jurisdiction and power. But some stress has been laid upon the resolution, which says that this principle should be applied to

"The organization of the Territories, and to the admission of new States, with or without domestic slavery, as they may elect."

What does "may elect" mean? Does it refer to organization of the Territory? Who may elect? Congress organizes the Territories. Did it mean that the Territories were to elect? It does not say so. What does it say?

"That by the uniform application of this Democratic principle to the organization of Territories, and to the admission of new States, with or without domestic slavery, as they may elect."

And here it met a question which had disturbed the peace of the country and well-nigh destroyed the Union,—the right of a State holding slaves to be admitted into the Union. It was declared here that the State so admitted should elect whether it would or would not have slaves. There is nothing in that which logically applies to the organization of a Territory. But if this be in doubt, let us come to the last resolution, which says:—

"We recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents—"

Does it stop there? No—

"and whenever the number of their inhabitants justifies it, to form a constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

If there had been any doubt before as to what "may elect" referred to, this resolution certainly removed it. It is clear they meant that when a Territory had a sufficient number of inhabitants and came to form a constitution, then it might decide the question as it pleased. From that doctrine, I know no Democrat who now dissents.

I have thus, because of the assertion that this was a new idea, attempted to be interjected into the Democratic creed, gone over some portion of its history. Important by its connection with the existing agitation, and last in the series, is an act with the ushering in of which the Senator is more familiar than myself, and on which he made remarks, to which, it is probable, some of those who acted with him, will reply. I wish merely to say, in relation to the Kansas-Nebraska act, that there are expressions in it which seem to me not of doubtful meaning, such as, "in all cases involving title to slaves, or involving the question of personal freedom," there should be a trial before the courts, and without reference to the amount involved, an appeal to the Supreme Court of the Territory, and from thence to the Supreme Court of the United States. If there was no right of property there; if we had no right to recognize it there; if some sovereign was to determine whether it existed or not, why did we say that the

Supreme Court of the United States, in the last resort, should decide the question? If it was an admitted thing, by that bill, that the Territorial Legislature should decide it, why did we provide for taking the case to the Supreme Court? If it had been believed then, as it is asserted now, that a Territory possessed all the power of a State; that the inhabitants of a Territory could meet in convention and decide the question as the people of a State might do, there was nothing to be carried to the Supreme Court. You cannot appeal from the decision of a constitutional convention of a State to the Supreme Court of the United States, to decide whether slave property shall be prohibited or admitted within the limits of a State; and if they rest on the same footing, what is the meaning of that clause of the bill?

But this organic law further provides, just as the resolution of the convention had done, that when a legal majority of the residents of either Territory formed a constitution, then, at their will, they might recognize or exclude slavery, and come into the Union as co-equal States. This fixes the period, defines the time at which the territorial inhabitants may perform this act, and clearly forbids the idea that it was intended, by those who enacted the law, to acknowledge that power to be existent in the inhabitants of a Territory during their territorial condition. If I am mistaken in this; if there was a contemporaneous construction of it differing from this, the Senators who sit around me, and who were then members of the body, will not fail to remember it.

The Senator asserts that, in relation to this point, those who acted with him have changed, and claims for himself to have been consistent. If this be so, it proves nothing as to the present, and only individual opinions as to the past. I do not regard consistency as a very high virtue; neither, it appears, does he; for he told us that if it could be shown to him that he was in error on any point, he would change his opinion. How could that be? Who would undertake to show the Senator that he was in error? Who would undertake to measure the altitude of the Colossus who bestrides the world, and announces for, and of, and by himself, "We, the Democracy," as though, in his person, all that remained of the party was now concentrated! Other men are permitted to change, because other men may be mistaken; and if they are honest, when convicted of their error, they must change; but how can one expect to convince the Senator, who, where all is change, stands changeless still?

In the course of his reply to me—if indeed it may be called such; it seemed to be rather a review of everything except what I had said—he set me the bad example of going into the canvass in my own State. It is the first, I trust it will be the last time, I shall follow his example; and now only to the extent of the occasion, where criticism was invited by unusual publicity. In the canvass which the Senator had with his opponent, Mr. Lincoln, and the debates of which have been published in a book, we find much which, if it be consistent with his course as I had known it, only proves to me how little able I was to understand his meaning in former times.

The Kansas-Nebraska bill having agreed the right for which I contend to be the subject of judicial decision; it having specially provided the mode and facilitated the process by which that right should be brought to the courts and finally decided; not allowing any check to be interposed because of amount, that bill having continued the provision which had been introduced into the New Mexico bill, how are we to understand the Senator's declarations, that, let the Supreme Court decide as they may, the inhabitants of a Territory may lawfully admit or exclude slavery as they please? What a hollow promise was given to us in the provision referring this vexed question to judicial decision, in order that we might reach a point on which we might peacefully rest, if the inhabitants of the Territories for which Congress had legislated could still decide the question and set aside any decision of the Supreme Court, and do this lawfully. I ask, was it not to give us a stone, when he promised us bread, to incorporate a provision in the organic act securing the right of appeal to the courts, if as now stated, those courts were known to be powerless to grant a remedy?

Here there is a very broad distinction to be drawn between the power of the inhabitants of a Territory, or of any local community, lawfully to do a thing, and forcibly to do it. If the Senator had said, that whatever might be the decision of the Supreme Court, whatever might be the laws of Congress, whatever might be the laws of the Territories, in the face of an infuriated mob, such as he described on another occasion, it would be impossible for a man to hold a slave against their will, he would but have avowed the truism that in our country the law waits upon public opinion. But he says that they can do it lawfully. If his position had been such as I have just stated, it would have struck me as the opinion I had always supposed him to entertain. More than that, it would have struck me as the opinion which no one could gainsay; which at any time I would have been ready to admit. Nothing is more clear than that no law could prevail in our country, where force as a governmental mean, is almost unknown, against a pervading sentiment in the community. Everybody admits that; and it was in that view of the case that this question has been so often declared to be a mere abstraction. It is an abstraction so far as any one would expect in security to hold against the fixed purpose and all-pervading will of the community, whether territorial or other, a species of property, ambulatory, liable, because it has mind enough to go, to be enticed away whenever freed from physical restraint, and which would be nearly valueless if so restrained. It may be an abstraction as a practical question of pecuniary advantage, but it is not the less dear to those who assert the constitutional right. It would constitute a very good reason why no one should ever say there was an attempt to force slavery on an unwilling people, but no reason why the right should not be recognized by the Federal Government as one belonging to the equal privileges and immunities of every citizen of the United States.

But the main point of the Senator's argument, and it deserved to be so, because it is the main question now in the public mind was, what is the meaning of non-intervention? He defined it to be synonymous with squatter sovereignty or with popular sovereignty.

. . . . . .

The Senator and myself do not seem to be getting any nearer together; because the very thing which he describes constitutes the only case in which I would admit the necessity, and, consequently, the propriety of the people acting without authority. If men were cast upon a desert island, the sovereignty of which was unknown, over which no jurisdiction was exercised, they would find themselves necessitated to establish rules which should subsist between themselves; and so the people of California, when Congress failed to give them a government; when it refused to enact a territorial law; when paralyzed by the power of contending factions, it left the immigrants to work their own unhappy way; they had a right—a right growing out of the necessity of the case—to make rules for the government of their local affairs. But this was not sovereignty. It was the exercise between man and man of a social function necessary to preserve peace in the absence of any controlling power; essential to conserve the relations of person and property. The sovereignty, if it existed in any organization or government of the world, remained there still; and whenever that sovereignty extended itself over them, whether shipwrecked mariners or adventurous Americans; whether cast off by the sea, or whether finding their weary way across the desert plains which lie west of the Mississippi; whenever the hand of the government holding sovereign jurisdiction was laid upon them, they became subject; their sovereign con-

trol of their own affairs ceased. In our case, the directing hand of the government is laid upon them at the moment of the enactment of an organic law. Therefore, the very point at which the Senator begins his sovereignty, is the point at which the necessity and in my view, the claim ceases.

But suppose that a Territorial Legislature, acting under an organic law, not defining their municipal powers further than has been general in such laws, should pass a law to exclude slave property, would the Senator vote to repeal it?

Mr. DOUGLAS. I will answer. I would not, because the Democratic party is pledged to non-intervention; because furthermore, whether such an act is constitutional or not is a judicial question. If it is unconstitutional, the court will so decide, and it will be null and void without repeal. If it is constitutional, the people have the right to pass it. If unconstitutional, it is void, and the court will ascertain the fact; and we pledged our honors to abide the decision.

* * * * * * *

Mr. DAVIS. If it will not embarrass the Senator, I would ask him if, as chief Executive of the United States, he would sign a bill to protect slave property in State, Territory, or District of Columbia—an act of Congress. . . .

Mr. DOUGLAS. It will be time enough for me, or any other man, to say what bills he will sign, when he is in a position to exercise the power.

Mr. DAVIS. The Senator has a right to make me that answer. I was only leading on to a fair understanding of the Senator and myself about non-intervention.

I think it now appears that, in the minds of the gentlemen, non-intervention is a shadowy, unsubstantial doctrine, which has its application according to the circumstances of the case. It ceased to apply when it was necessary to annul an act in Kansas in relation to the political rights of the inhabitants. It had no application when it was necessary to declare that the old French laws should not be revived in the Territory of Kansas after the repeal of the Missouri Compromise; but it rose an insurmountable barrier, when we proposed to sweep away the Mexican decrees, usages or laws, and leave the Constitution and laws of the United States unfettered in their operation in the Territory acquired from Mexico. It thus seems to have a constantly varying application, and as I have not yet reached a good definition, one which quite satisfies me, I must take it as I find it in the Senator's speech, in which he says, Alabama asserted the doctrine of non-intervention in 1856. The Alabama resolutions of 1856 asserted the right to protection, and the duty of the Federal Government to give it. So, if he stands upon the resolutions of Alabama in 1856, non-intervention is very good doctrine, and exactly agrees with what I believe—no assumption by the Federal Government of any powers over the municipal territorial governments which is not necessary; that the hand of Federal power shall be laid as lightly as possible upon any territorial community; that its laws shall be limited to the necessities of each case; that it shall leave the inhabitants as unfettered in the determination of their local legislation as the rights of the people of the States will permit, and the duty of the General Government will allow. But when non-intervention is pressed to the point of depriving the arm of the Federal Government of its one great function of protection, then it is the doctrine which we denounce, which we call squatter sovereignty; the renunciation by Congress and the turning over to the inhabitants a sovereignty which rightfully it does not belong to the one to grant or the other to claim, and further and worse thus to divest the Federal Government of a duty which the Constitution requires it to perform.

To show that this view is not new, that it does not rest singly on the resolutions of Alabama, I will refer to a subject, the action upon which has already been quoted in this debate—the Oregon bill. During the discussion of the Oregon bill, I offered in the Senate, June 23, 1848, an amendment which I will read:

"*Provided*, That nothing contained in this act shall be so construed as to authorize the prohibition of domestic slavery in said Territory, whilst it remains in the condition of a Territory of the United States."

Upon this I will cite the authority of Mr. Calhoun in his speech on the Oregon bill, June 27, 1848:

"The twelfth section of this bill is intended to assert and maintain this demand of the non slaveholding States, while it remains a Territory, not openly or directly, but indirectly, by extending the provisions of the bill for the establishment of the Iowa Territory to this, and by ratifying the acts of the informal and self-constituted government of Oregon, which, among others, contains one prohibiting the introduction of slavery. It thus, in reality, adopts what is call d the Wilmot Proviso, not only for Oregon, but, as the bill now stands, for New Mexico and California. The amendment, on the contrary, moved by the Senator from Mississippi, near me [Mr. Davis], is intended to assert and maintain the position of the slaveholding States. It leaves the Territory free and open to all the citizens of the United States, and would overrule, if adopted, the act of the self-constituted Territory of Oregon and the twelfth section, as far as it relates to the subject under consideration. We have thus fairly presented the grounds taken by the non-slaveholding and the slaveholding States, or, as I shall call them for the sake of brevity, the Northern and Southern States, in their whole extent, for discussion."—*Appendix to Congressional Globe, Thirtieth Congress, First Session*, p. 868.

I will quote also one of the speeches, which he made near the close of his life, at a time when he was so far wasted by disease that it was necessary for him to ask the Senator from Virginia, who sits before me [Mr. Mason], to read the speech which his tameless spirit impelled him to compose, but which he was physically unable to deliver; and once again he came to the Senate Chamber when standing yet more nearly on the confines of death; he rose, his heart failing in its functions, his voice faltered, but his will was so strong that he could not realize that the icy hand was upon him; and he erroneously thought he was oppressed by the weight of his overcoat. True to his devotion to the principles he had always advocated, clinging in the last hour of his life to the duty to maintain the rights of his constituents, still he was here, and his honored, though feeble, voice was raised for the maintenance of the great principles to which his life had been devoted. From the speech I read as follows:

"The plan of the Administration cannot save the Union, because it can have no effect whatever towards satisfying the States composing the southern section of the Union, that they can, consistently with safety and honor, remain in the Union. It is, in fact, but a modification of the Wilmot proviso. It proposes to effect the same object—to exclude the South from all Territory acquired by the Mexican treaty. It is well known that the South is united against the Wilmot proviso, and has committed itself by solemn resolutions, to resist, should it be adopted. Its opposition *is not to the name*, but that which it *proposes to effect*. That the Southern States hold to be unconstitutional, unjust, inconsistent with their equality as members of the common Union, and calculated to destroy irretrievably the equilibrium between the two sections. These objections equally apply to what, for brevity, I will call the executive proviso. There is no difference between it and the Wilmot, except in the mode of effecting the object: and in that respect, I must say, that the latter is much the least objectionable. It goes to its object openly, boldly, and distinctly. It claims for Congress unlimited power over the Territories and proposes to assert it over the Territories acquired from Mexico, by a positive prohibition of slavery. Not so the executive proviso. It takes an indirect course, and in order to elude the Wilmot proviso, and thereby avoid encountering the united and determined resistance of the South, it denies by implication, the authority of Congress to legislate for the Territories, and claims the right as belonging exclusively to the inhabitants of the Territories. But to effect the object of excluding the South, it takes care, in the meantime, to let in emigrants freely from the Northern States and all other quarters, except from the South, which it takes special care to exclude by holding up to them the danger of having their slaves liberated under the Mexican laws. The necessary consequence is to exclude the South from the Territory, just as effectually as would the Wilmot proviso. The only difference in this respect is, that what one proposes to effect directly and openly, the other proposes to effect indirectly and covertly.

"But the executive proviso is more objectionable than the Wilmot in another and more important particular. The latter, to effect its object, inflicts a dangerous wound upon

the Constitution, by depriving the Southern States, as joint partners and owners of the Territories, of their rights in them; but it inflicts no greater wound than is absolutely necessary to effect its object. The former, on the contrary, while it inflicts the same wound, inflicts others equally great, and, if possible, greater, as I shall next proceed to explain.

"In claiming the right for the inhabitants, instead of Congress, to legislate for the Territories, the executive proviso assumes that the sovereignty over the Territories is vested in the former, or to express it in the language used in a resolution offered by one of the Senators from Texas (Gen. Houston, now absent), they 'have the same inherent right of self-government as the people in the States.' This assumption is utterly unfounded, unconstitutional, without example, and contrary to the entire practice of the government, from its commencement to the present time, as I shall proceed to show."—*Calhoun's Works*, vol. 4, p. 562.

Mr. DAVIS. I find that I must abridge by abstaining from the reading of extracts. When this question arose in 1820, Nathaniel Macon, by many considered the wisest man of his day, held the proposed interference to be unauthorized and innovative. In arguing against the Missouri Compromise, as it was called—the attempt by Congress to prescribe where slaves might or might not be held—the exercise by the Federal Government north of a certain point, of usurped power by an act of inhibition, Mr. Macon said our true policy was that which had thus far guided the country in safety: the policy of non-intervention. By non-intervention he meant the absence of hostile legislation, not the absence of governmental protection. Our doctrine on this point is not new, but that of our opponents is so.

The Senator from Illinois, assumes that the Congressional acts of 1850, meant no legislation in relation to slave property; while in the face of that declaration stand the laws enacted in that year, and the promise of another which has not been enacted—laws directed to the question of slavery, and slave property, one even declaring in certain contingencies as a penalty on the owner the emancipation of his slave in the District of Columbia. If no action upon the question was the prevailing opinion, what does the legislation mean? Was it non-action in the District of Columbia? Be it remembered, the resolution of the Cincinnati platform says, "non-interference by Congress with slavery in State and Territory, or in the District of Columbia." They are all upon the same footing.

Again, he said that the Badger amendment was a declaration of no protection to slave property. The Badger amendment declares that the repeal of the Missouri compromise shall not revive the laws or usages which pre-existed that compromise; and the history of the times, so far as I understand it, is, that it intended to assure those gentlemen who feared that the laws of France would be revived in the Territories of Kansas and Nebraska by the repeal of the act of 1820, and that they would be held responsible for having, by Congressional act, established slavery. The southern men did not desire Congress to establish slavery. Is has been our uniform declaration that we denied the power of the Federal Government either to establish or prohibit it; that we claimed for it protection as property, recognized by the Constitution, and we claimed the right for it, as property, to go and to receive federal protection wherever the jurisdiction of the United States is exclusive. We claim that the Constitution of the United States, in recognizing this property, making it the basis of representation, put it not upon the footing which it holds between foreign nations, but upon the basis of the compact or Union of the States; that under the delegated grant to regulate commerce between the States, it did not belong to a State; therefore, without breach of contract they cannot, by any regulation prohibit transit, and the compact provided that they should not change the character of master and slave in the case of a fugitive. Could Congress surrender for the States and their citizens the claim and protection for those or other constitutional rights against invasion by a State? if not, surely it cannot be done in the case of a Territory, a possession ot the States The word "protecting" in that amendment referred to laws which pre-existed; laws which it was not designed by the Democrats to revive when they declared the repeal of the Missouri Compromise, and therefore I think did not affect the question of constitutional right and federal power and duty.

In all these territorial bills we have the language "subject to the Constitution;" that is to say, that the inhabitants are to manage their local affairs in their own way, subject to the Constitution; which, I suppose, might be rendered thus: "in their own way, provided their own way shall be somebody else's way;" for "subject to the Constitution" means, in accordance with an instrument with which the territorial inhabitants had nothing to do; with the construction of which they were not concerned; in the adoption of which they had no part, and in relation to which it has sometimes been questioned whether they had any responsibility. My own views, as the Senator is aware from previous discussions (and it is needless to repeat), are that the Constitution is coextensive with the United States; that the designation includes the Territories; that they are necessarily subject to the Constitution. But if they be subject to the Constitution, and subject to the organic act, that is the language used; that organic act being the law of Congress, that Constitution being the compact of the States—the territorial inhabitants having no lot or part in one or the other, save as they are imposed upon them—where is their claim to sovereignty? Where is their right to do as they please? The States have a compact, and the agent of the States gives to the Territories a species of construction in the organic act, which endures and binds them until they throw off what the Senator on another occasion termed the minority condition, and assume ths majority condition as a State. The remark to which I refer was on the bill to admit Iowa and Florida into the Union. The Senator then said:

"The father may bind the son during his minority, but the moment that he (the son) attains his majority, his fetters are severed, and he is free to regulate his own conduct. So, sir, with the Territories: they are subject to the jurisdiction and control of Congress during infancy, their minority; but when they attain their majority, and obtain admission into the Union, they are free from all restraints and restrictions, except such as the Constitution of the United States imposes upon each and all the States."

This was the doctrine of territorial sovereignty—perhaps that is the phrase—at that period. At a later period, in March, 1856, the Senator said:

"The sovereignty of a Territory remains in abeyance, suspended in the United States in trust for the people, until they shall be admitted into the Union as a State. In the meantime, they are admitted to enjoy and exercise all the rights and privileges of self-government, in subordination to the Constitution of the United States, and in obedience to the organic law passed by Congress in pursuance of that instrument."

If it be admitted—and I believe there is no issue between the Senator and myself on that point—that the Congress of the United States have no right to pass a law excluding slaves from a Territory, or determining in the Territory the relation of master and slave, of parent and child, of guardian and ward; that they have no right anywhere to decide what is property, but are only bound to protect such rights as pre-existed the formation of the Union—to perform such functions as are intrusted to them as the agent of the States—then how can Congress, thus fettered, confer upon a corporation of its creation—upon a Territorial Legislature, by an organic act, a power to determine what shall be property within the limits of such Territory.

But, again, if it were admitted that the territorial inhabitants did possess this sovereignty: that they had the right to do as they pleased on all subjects, then would arise the question, if they were authorized

through their representatives thus to act, whence came the opposition to what was called the Lecompton constitution? How did Congress, under this state of facts, get the right to inquire whether those representatives in that case really expressed the will of the people. Still more; how did Congress get the right to decide that those representatives must submit their action to a popular vote in a manner not prescribed by the people of the Territory; however eminently it may have been advisable, convenient, and proper in the judgment of the Congress of the United States? What revisory function had we, if they, through their representatives, had full power to act on all such subjects whatsoever?

I have necessarily, in answering the Senator, gone somewhat into the *argumentum ad hominem*. Though it is not entirely exhausted, I think enough has been said to show the Senate in what the difference between us consists. If it be necessary further to illustrate it, I might ask how did he propose to annul the organic act for Utah, if the recognition by the Congress of a sufficient number of inhabitants to justify the organization of a territorial government, transferred the sovereignty to the inhabitants of the Territory? If sovereignty passed by the recognition of the fact, how did he propose, by Congressional act, to annul the territorial existence of Utah?

It is this confusion of ideas, it is this confounding of terms, this changing of language, this applying of new meanings to words, out of which, I think, a large portion of the dispute arises. For instance, it is claimed that President Pierce, in using the phrase "existing and incipient States," meant to include all Territories, and thus that he had bound me to a doctrine which precluded my strictures on what I termed squatter sovereignty. This all arises from the misuse of language. An incipient State, according to my idea, is the territorial condition at the moment it changes into that of a State. It is when the people assemble in convention to form a constitution as a State, that they are in the condition of an incipient State. Various names were applied to the Territories at an earlier period. Sometimes they were called "new States," because they were expected to be States; sometimes they were called "States in embryo," and it requires a determination of the language that is employed before it is possible to arrive at any conclusion as to the differences of understanding between gentlemen. Therefore it was, and, I think, very properly (but not, as the Senator supposed, to catechize him), that I asked him what he meant by non-intervention, before I commenced these remarks.

In the same line of errors was the confusion which resulted in his assuming that the evils I described as growing out of his doctrine on the plains of Kansas, were a denunciation, on my part, of the bill called the Kansas-Nebraska bill. At the time that bill passed, I did not foresee all the evils which have resulted from the doctrine based upon it, but which I do not think the bill sustains. I am not willing now to turn on those who were in a position which compelled them to act, made them responsible, and to divest myself of any responsibility which belongs to any opinion I entertained. I will not seek to judge after the fact and hold the measure up against those who had to judge before. Therefore I will frankly avow that I should have sustained that bill if I had been in the Senate; but I did not foresee or apprehend such evils as immediately grew up on the plains of Kansas. I looked then, as our fathers had looked before, to the settlement of the question of what institutions should exist there, as one to be determined by soil and climate, and by the pleasure of those who should voluntarily go into the country. Such, however, was not the case. The form of the Kansas-Nebraska bill invited to a controversy—not foreseen. I was not charging the Senator with any responsibility for it, but the variation of its terms invited contending parties to meet on the plains of Kansas, and had well-nigh eventuated in civil war. The great respect which even the most lawless of those adventurers in Kansas had for the name and the laws of the United States, served, by the timely interposition of the Federal force and laws, to restrain the excited masses and prevented violence from assuming larger proportions than combats between squads of adventurers.

This brings me in the line of rejoinder, to the meaning of the phrase, "the people of a Territory, like those of a State, should decide for themselves," &c., the language quoted against the President in the remarks of the Senator. This, it was announced, was squatter sovereignty in its broadest sense; and it was added, that the present Executive was elected to the high office he holds on that construction of the platform. Now, I do not know how it is that the Senator has the power to decide why the people voted for a candidate. I rather suppose, among the many millions who did vote, there must have been a variety of reasons, and that it is not in the power of any one man to declare what determined the result. But waiving that, is it squatter sovereignty in its broadest sense? Is it a declaration that the inhabitants of a Territory can exercise all the powers of a State? It says that, "like the people of a State," they may decide for themselves. Then how do the people of a State decide the question of what shall be property within the State? Every one knows that it is by calling a convention, and that the people, represented in convention, and forming a constitution, their fundamental law, do this. Every one knows that, under the constitutions and bills of rights which prevail in the republican States of this Union, no legislature is invested with that power. If this be the mode which is prescribed in the States—the mode which the States must pursue—I ask you, in the name of common sense, can the language of the President be construed to mean that a Territorial Legislature may do what it is admitted the Legislature of a State cannot; or that the inhabitants of a Territory can assemble a convention, and form a fundamental law overriding the organic act, to which the Senator has already acknowledged they stand subject until they be admitted as a State?

We of the South, I know, are arraigned, and many believe justly, for starting a new question which distracts the Democratic party. I have endeavored, therefore, to show that it is not new. I have also asserted, what I think is clear, that if it were new, but yet a constitutional right, it is not only our province, but our duty to assert it—to assert it whenever or wherever that right is controverted. It is asserted now with more force than at a former period, for the simple reason that it is now denied, to an extent which has never been known before. We do not seek, in the cant language of the day, to force slavery on an unwilling people. We know full well there is no power to do it; and our limited observation has not yet made us acquainted with the man who was likely to have a slave forced upon him, or who could get one without paying a very high price for him. He must first have the will, and, secondly, he must put money in his purse to enable him to get one. They are too valuable among those by whom they are now owned, to be forced upon anybody. Not admitting the correctness of the doctrine which the Senator promulgated in his magazine article in relation to a local character of slave property, I recognize the laws of nature, and that emigration will follow in the lines where any species of labor may be most profitably employed; all, therefore, we have asked, fulfilment of the original compact of our fathers, was that there should be no discrimination; that all property should be equally protected; that we should be permitted to go into every portion of the United States save where some sovereign power has said slaves shall not be held, and to take with us our slave property in like manner as we would take any other; no more than that. For that, our Government has contended on the high seas against foreign powers. That has entered into our negotiations, and has been recognized by every Gov-

ernment against whom a claim has been asserted. Where our property was captured on the land during the period of an invasion, Great Britain, by treaty, restored it, or paid for it.—Wherever it has suffered loss on the high seas, down to a very recent period, we have receivd indemnity; and where we have not, it was only because the power and duty of the Federal Government was sacrificed to this miserable strife in relation to property, with the existence of which, those making the interference had no municipal connection, or moral responsibility.

I do not admit that sovereignty necessarily exists in the Federal Government or in a territorial government. I deny the Senator's proposition, which is broadly laid down, of the necessity which must exist for it in the one place or the other. I hold that sovereignty exists only in a State, or in the United States in their associated capacity, to whom sovereignty may be transferred, but that their agent is incapable of receiving it, and still more of transferring it to territorial inhabitants.

I was sorry for some of the remarks which he thought it necessary to make, as to the position of the South on this question, and for his assertion that the resolutions of the Convention of 1848 put the pro-slavery men and the Abolitionists on the same ground. I think it was altogether unjust. I did not think it quite belonged to him to make it. I was aware that his opponent in that canvass to which I referred, had made a prophecy that he was, sooner or later, to land in the ranks of the Republicans. Even if I had believed it, I would not have chosen—and it is due to candor to say I do not believe—— * * *

Mr. DAVIS. Well, it is unimportant. I feel myself constrained, because I promised to do it, to refer to some portion of the joint record of the Senator and myself in 1850, or, as I have consumed so much time, I would avoid it. In that same magazine article to which I have referred, the Senator took occasion to refer to some part which I had taken in the legislation of 1850; and I must say he presented me unfairly. He put me in the attitude of one who was seeking to discriminate, and left himself in the position of one who was willing to give equal protection to all kinds of property. In that magazine article the Senator represents Mr. DAVIS, of Mississippi, as having endeavored to discriminate in favor of slave property, and Mr. Chase, of Ohio, as having made a like attempt against it; and he leaves himself, by his argument, in the attitude of one who concurred with Mr. Clay in opposition to both propositions.

I offered an amendment to the compromise bill of 1850, which was to strike out the words "in respect to," and insert "and introduce or exclude," and after the word "slavery" to insert the following:

"*Provided*, That nothing herein contained shall be construed to prevent said Territorial Legislature passing such laws as may be necessary for the protection of the rights of property of any kind which may have been or may be hereafter, conformably to the Constitution and laws of the United States, held in, or introduced into, said Territory."

Mr. Chase's amendment is in these words:

"*Provided further*, That nothing herein contained shall be construed as authorizing or permitting the introduction of slavery, or the holding of persons as property within said Territory."

Whilst the quotation in the magazine article left me in the position already stated, the debates which had occurred between us necessarily informed the Senator that it was not my position, for I brought him in that debate to acknowledge it.

On that occasion, I argued for my amendment as an obligation of the Government to remove obstructions; to give the fair operation to constitutional right; and so far from the Senator having stood with Mr. Clay against all these propositions, the fact appears, on page 1134 of the Globe, that, upon the vote on Chase's amendment, DOUGLAS voted for it, and DAVIS and CLAY voted against it; that upon the vote on DAVIS's amendment, CLAY and DAVIS voted for it, and DOUGLAS voted against it.

Mr. DOUGLAS. The Senator should add, that that vote was given under the very instructions to which he referred the other day, and which are well known to the Senate, and are on the table.

Mr. DAVIS. I was aware that the Senator had voted for Mr. Seward's amendment, the "Wilmot proviso," under these instructions, but I receive his explanation. Mr. Berrien offered an amendment to change the provision which said there should be no legislation in respect to slavery, so as to make it read, "there shall be no legislation establishing or prohibiting African slavery" Mr. Clay voted for that; so did Mr. Davis. Mr. Douglas voted against it. Mr. Hale offered an amendment to Mr. Berrien's amendment, to add the word "allowing." Here Mr. Douglas voted for Mr. Hale's amendment, and against Davis and Clay. Then a proposition was made to continue the Mexican laws against slavery until repealed by Congress. I think I proved, at least I did to my own satisfaction, that there was no such Mexican law; that it was a decree, and that the legislation which occurred under it had never been executed. But that proposition by Mr. Baldwin, which was to continue the Mexican laws in force, was brought to a vote, and again Mr. Douglas voted for it, and Mr. Davis and Mr. Clay voted against it. When another proposition was brought forward to amend by "removing the obstructions of Mexican laws and usages to any right of person or property by the citizens of the United States in the Territories aforesaid," I do not find the Senator's name among those who voted, though by reference to the Appendix, I learned he was present immediately afterwards, by his speaking to another amendment.

Thus we find the Senator differing from me on this question, as was stated; but we do not find him concurring with Mr. Clay, as was stated; and we do not find the proposition which I introduced, and which was mentioned in the magazine article, receiving the joint opposition of himself and Mr. Clay; and yet his remarks in the Senate the other day went upon the same theory, that Mr. Clay and himself had been cooperating. Now, the fact of the case is, that they agreed in supporting the final passage of the bill, and I was against it. I was one of the few Southern men who resisted, in all its stages, what was called the compromise or omnibus bill. I have consumed the time of the Senate by this reference, made as brief as I could, on account of the remarks the Senator had made.

Coupled with this arraignment of myself, at a time when he says he had leisure to discuss the question with the Attorney-General, but when there was nothing in my position certainly to provoke the revision of my course in Congress, is his like review of it in the Senate. As I understood his remarks, for I did not find them in the Congressional Globe the next morning, he vaunted his own consistency and admitted mine, but claimed his to be inside and mine outside of the Democratic organization. Is it so? Will our votes on test questions sustain it? The list of yeas and nays would, on the points referred to, exhibit quite the reverse. And it strikes me, that on the recent demonstrations we have had, when the Democratic Administration was, as it were, put on its trial in relation to its policy in Kansas, the Senator's associations, rather than mine, were outside of the Democratic organization. How is it, on the pending question, the declaration of great principles of political creed, the Senator's position is outside of the Senate's Democracy, and mine in it; so that I do not see with what justice he attempts that discrimination between him and me. That the difference exists, that it involves a division greater or less in Democratic ranks, is a personal regret, and I think a public misfortune. It gives me, therefore, no pleasure to dwell upon it, and it is now dismissed.

Mr. President, after having for forty years been engaged in bitter controversy over a question relating

to common property of the States, we have reached the point where the issue is presented in a form in which it becomes us to meet it according to existing facts; where it has ceased to be a question to be decided on the footing of authority, and by reference to history. We have decided that too long had this question been disturbing the peace and endangering the Union, and it was resolved to provide for its settlement, by treating it as a judicial question. Now, will it be said, after Congress provided for the adjustment of this question by the courts, and after the courts had a case brought before them, and expressed an opinion covering the controversy, that no additional latitude is to be given to the application of the decision of the court, though Congress had referred it specially to them; that it is to be treated simply and technically as a question of *meum et tuum*, such as might have arisen if there had been no such legislation by Congress? Surely it does not become those who have pointed us to that provision as the peace offering, as the means for final adjustment, now to say that it meant nothing more than that the courts would go on hereafter, as heretofore, to try questions of property.

The courts have decided the question so far as they could decide any political question. A case arose in relation to property in a slave held within a Territory where a law of Congress declared that such property should not be held. The whole case was before them; everything, except the mere technical point that the law was not enacted by a Territorial Legislature. Why, then, if we are to abide by the decision of the Supreme Court in any future case, do they maintain this controversy on the mere technical point which now divides, disturbs, distracts, destroys the efficiency and the power of the Democratic party? To the Senator, I know, as a question of property, it is a matter of no consequence. I should do him injustice if I left any one to infer that I treated his argument as one made by a man prejudiced against the character of property involved in the question. That is not his position; but I assert that he is pursuing an *ignis fatuus*—not a light caught from the Constitution—but a vapor which has arisen from the corrupting cesspools of sectional strife, of faction and individual rivalry. Measured by any standard of common sense, its magnitude would be too small to disturb the adjustment of the balance of our country. There can be no appeal to humanity made upon this basis. Least of all could it be made to one who, like the Senator and myself, has seen this species of property in its sparse condition on the northwestern frontier, and seen it go out without disturbing the tranquillity of the community, as it had previously existed without injury to any one, if not to the benefit of the individual who held it. He has no apprehension, he can have none, that it is to retard the political prosperity of the future States—now the Territories. He can have no apprehension that in that country to which they never would be carried except for domestic purposes, they could ever so accumulate as to constitute a great political element. He knows, and every man who has had experience and judgment must admit, that the few who may be so carried there have nothing to fear but the climate, and that living in that close connection which belongs to one or half a dozen of them in a family, the kindest relations which it is possible to exist between master and dependent, exist between these domestics and their owners.

There is a relation belonging to this species of property, unlike that of the apprentice or the hired man, which awakens whatever there is of kindness or of nobility of soul in the heart of him who owns it; this can only be alienated, obscured, or destroyed, by collecting this species of property into such masses that the owner is not personally acquainted with the individuals who compose it. In the relation, however, which can exist in the northwestern Territories, the mere domestic connection of one, two, or, at most, half a dozen servants in a family, associating with the children as they grow up, attending upon age as it declines, there can be nothing against which either philanthropy or humanity can make an appeal. Not even the emancipationist could raise his voice, for this is the high road and the open gate to the condition in which the masters would from interest in a few years desire the emancipation of every one who may thus be taken to the northwestern frontier.

Mr. President, I briefly and reluctantly referred, because the subject had been introduced, to the attitude of Mississippi on a former occasion. I will now as briefly say that in 1854, and in 1860, Mississippi was, and is, ready to make every concession which it becomes her to make to the welfare and safety of the Union. If, on a former occasion, she hoped too much from fraternity, the responsibility for her disappointment rests upon those who fail to fulfil her expectations. She still clings to the Government as our fathers formed it. She is ready to-day and to-morrow, as in her past and though brief, yet brilliant history, to maintain that Government in all its power, and to vindicate its honor with all the means she possesses. I say brilliant history; for it was in the very morning of her existence that her sons on the plains of New Orleans were announced in general orders to have been the admiration of one army and the wonder of the other. That we had a division in relation to the measures enacted in 1850, is true; that the Southern Rights men became the minority in the election which resulted, is true; but no figure of speech could warrant the Senator in speaking of them as subdued; as coming to him or anybody else for quarter. I deemed it offensive when it was uttered, and the scorn with which I repelled it at the instant, time has only softened to contempt. Our flag was never borne from the field. We had carried it in the face of defeat, with a knowledge that defeat awaited it; but scarcely had the smoke of the battle passed away which proclaimed another victor, before the general voice admitted that the field again was ours; I have not seen a sagacious reflecting man, who was cognizant of the events as they transpired at the time, who does not say that, within two weeks after the election, our party was in a majority; and the next election which occurred showed that we possessed the State beyond controversy. How we have wielded that power it is not for me to say. I trust others may see forbearance in our conduct—that with a determination to insist upon our constitutional rights, then and now, there is an unwavering desire to maintain the Government, and to uphold the Democratic party.

We believe now, as we have asserted on former occasions, that the best hope for the perpetuity of our institutions depends upon the co-operation, the harmony, the zealous action of the Democratic party. We cling to that party from conviction, that its principles and its aims are those of truth and the country, as we cling to the Union for the fulfilment of the purposes for which it was formed. Whenever we shall be taught that the Democratic party is recreant to its principles; whenever we shall learn that it cannot be relied upon to maintain the great measures which constitute its vitality, I, for one, shall be ready to leave it. And so, when we declare our tenacious adherence to the Union, it is the Union of the Constitution. If the compact between the States is to be trampled into the dust; if anarchy is to be substituted for the usurpation and consolidation which threatened the Government at an earlier period; if the Union is to become powerless for the purposes for which it was established, and we are vainly to appeal to it for protection, then, sir, conscious of the rectitude of our course, the justice of our cause, self-reliant, yet humbly, confidingly trusting in the arm that guided and protected our fathers, we look beyond the confines of the Union for the maintenance of our rights. An habitual reverence and cherished affection for the Government will bind us to it longer than our interests would suggest or require; but he is a poor student of the world's history who does not understand that communities at last must yield to the dictates of their interests. That the affection, the mutual desire

for the mutual good, which existed among our fathers may be weakened in succeeding generations by the denial of right, and hostile demonstration, until the equality guaranteed but not secured within the Union may be sought for without it, must be evident to even a careless observer of our race. It is time to be up and doing. There is yet time to remove the causes of dissension and alienation which are now distracting, and have for years past divided the country.

If the Senator correctly described me as having, at a former period, against my own preferences and opinions, acquiesced in the decision of my party; if when I had youth, when physical vigor gave promise of many days, and the future was painted in the colors of hope, I could thus surrender my own convictions, my own prejudices, and co-operate with my political friends, according to their views, as to the best method of promoting the public good; now, when the years of my future cannot be many, and experience has sobered the hopeful tints of youth's gilding; when, approaching the evening of life, the shadows are reversed, and the mind turns retrospectively, it is not to be supposed that I would abandon lightly or idly put on trial, the party to which I have steadily adhered. It is rather to be assumed that conservatism which belongs to the timidity or caution of increasing years would lead me to cling to; to be supported by, rather than to cast off, the organization with which I have been so long connected. If I am driven to consider the necessity of separating myself from those old and dear relations, of discarding the accustomed support, under circumstances such as I have described, might not my friends who differ from me pause and inquire whether there is not something involved in it which calls for their careful revision?

I desire no divided flag for the Democratic party, seek not to depreciate the power of the Senator, or take from him anything of that confidence he feels in the large army which follows his standard. I prefer that his banner should lie in its silken folds to feed the moth; but if it unrestrainedly rustles impatient to be unfurled, we who have not invited the conflict shrink not from the trial; we will plant our flag on every hill and plain; it shall overlook the Atlantic and welcome the sun as he rises from its dancing waters; it shall wave its adieu as he sinks to repose in the quiet Pacific.

Our principles are national; they belong to every State of the Union; and though elections may be lost by their assertion, they constitute the only foundation on which we can maintain power, on which we can again rise to the dignity the Democracy once possessed. Does not the Senator from Illinois see in the sectional character of the vote he received, that his opinions are not acceptable to every portion of the country? Is not the fact that the resolutions adopted by seventeen States on which the greatest reliance must be placed for Democratic support, are in opposition to the dogma to which he still clings, a warning that if he persists and succeeds in forcing his theory upon the Democratic party, its days are numbered? We ask only for the Constitution. We ask of the Democracy only from time to time to declare as current exigencies may indicate what the Constitution was intended to secure and provide. Our flag bears no new device. Upon its folds our principles are written in living light; all proclaiming the Constitutional Union, justice, equality, and fraternity, of our ocean-bound domain, for a limitless future.

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